IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 2182 OF 2006.

Nandkishor N. Patil ..Petitioner
V/s
The Principal, J.N. Paliwal
Colllege of Arts, Science
And Commerce & others ..Respondents.

Mr. Mihir Desai with Ms. Ushajee Desai for petitioner.

Mr. Mandar Limaye for respondent Nos. 1 and 2.

Mr. Rui Rodrigues for respondnet No.3.

Mrs. M.P.Thakur, AGP for respondent Nos. 4 and 5.

CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.

DATE : 1ST DECEMBER, 2006.

P.C.

. Heard Mr. Mihir Desai, the learned Counsel for the petitioner, Mrs. Thakur, the learned AGP and Mr. Rui Rodrigues for respondent No.3 University. The petitioner prays for a Writ of Mandamus directing respondents to de-reserve the post of lecturer in Botany, which she is occupying under the respondent No.1 College as at present on temporary basis and for further directions to the College and set aside the

advertisement dated 6th December, 2005. The second prayer as at present would not survive, which fact is clearly conceded.

2. This petition is in the second round and in the first round Writ Petition No. 6142/2002 was decided by this Court on 4/5/2005. In the said order it was noted by this Court that the petitioner's appointment was on purely temporary basis initially for the academic year 1995-96 and in the academic year 1996-97, she was appointed against the reserved post for Scheduled Caste and the selection was made by the duly constituted University Selection Committee. However, in the subsequent, four academic years, she was appointed on temporary basis by the Local Selection Committee against the post reserved for Scheduled Caste, she does not possess the NET or SET qualification which is required under the Regulations framed by the University Grant Commission vide its Notification dated 4th April, 2000 and Government Resolution issued by the Government of Maharashtra on 18th October, 2001. This Court further noticed that the selected candidate belonging to the Scheduled Caste i.e. Mr. Ramatake was in the meanwhile, employed somewhere else and therefore, he did

not join the post which was otherwise occupied by the petitioner and therefore, she was directed to be continued on temporary basis or until the post was de-reserved in accordance with law.

3. The de-reservation of the post cannot be done by a writ of this Court and the Government has laid down a specific procedure, which requires that such a porposal is initiated by the College concerned, after it comes to the conclusion that a scheduled Caste candidate is not available and the proposal then goes to the University and then to the State Government. It is therefore, for the respondent Nos. 1 and 2 to take appropriate steps, if the conditions for de-reservation as set out by the State Government from time to time are satisfied to approach the respondent No.3 University and then the State Government. There is nothing on record to show that after the order was passed by this Court on 4/5/2002 the College released any advertisement notifying the said post reserved for Scheduled Caste category and that such candidates were not available. We therefore, leave the issue to the respondent Nos. 1 and 2 to look into the grievance of the petitioner and to take appropriate steps for de-resevation, if so

advised and the conditions for the same are fulfilled as per the Government Policy laid down.

4. The petition is disposed of accordingly

(J.H. BHATIA, J.) **(B.H. MARLAPALLE, J.)**